IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Misc. Civil Application No.129 of 2007.
In
Second Appeal No.103 of 2005.

[Jainarayan Hiralal Jaiswal]

Vs.

[Smt. Rekha W/o Ramesh Bhole and one]

.....

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Register's orders.	Court's or Judge's Orders

.....

Shri VV Bhangde Advocate for the applicant.

CORAM : A. H. JOSHI, J.
DATED : 11/07/2007.

1. Heard learned Advocate Shri V. V. Bhangde for the applicant.

2. The applicant has raised two grounds for review namely :-

1] That it is submitted with deepest respect this Hon'ble Court committed serious error of Law apparent on the fact of record when it came to the conclusion in para 5 of the impugned order

that the Trial Court and the Appellate Court had recorded a finding of fact that Rekhabai had inherent right in the property irrespective of the Gift Deed. It is submitted with deepest respect that no such finding has been recorded by both the Courts below and, therefore, the order of this Hon'ble Court recording the same is contrary to record.

2] That, the findings of this Hon'ble Court that debate as to proof or disprove of title of the plaintiff is not open in Second Appeal, is with deepest respect contrary to the settled legal position as a question of title arising on the basis of the interpretation of proved documents is a substantial question of Law which can be examined in Second Appeal. Thus, order dated 14/8/2006 suffers from serious error of Law apparent on the face of record and the same needs to be recalled.

3. Second ground is as to legality of order passed by this Court, and it is not a ground available for review.

4. In so far as 1st ground is concerned after hearing and perusal of order sought to be reviewed, this

Court is of considered opinion that word "inherent" is a mistake which was occurred during the writing or transcription, and it shall suffice if the word " inherent" appearing in 1st sentence of para 5 of Order dated 14-8-2006 is deleted, and I order accordingly.

Suitable correction be carried out.

5. In view of this, and with above order, the Civil Application No.129 of 2007 is rejected.

JUDGE

sbm